

**Assembly Bill No. 487**

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Passed the Assembly    September 13, 2003

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*Chief Clerk of the Assembly*

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Passed the Senate    September 12, 2003

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2003, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

Corrected 9-25-03

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## CHAPTER \_\_\_\_\_

An act add Section 1936.3 to, and to add and repeal Sections 1936.2 and 1936.4 of, the Civil Code, relating to rental vehicle fees, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 487, Frommer. Rental vehicle fees.

(1) Existing law regulates the contents of vehicle rental agreements used by businesses that rent passenger vehicles to the public, as specified. Existing law, the Vehicle License Fee (VLF) Law, also establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 2% of the market value of that vehicle, as specified. The VLF Law offsets this amount by 67.5% for vehicle license fees with a final due date on or after July 1, 2001.

This bill would, until January 1, 2007, except as specified, require a rental company to collect from renters a vehicle license transaction fee to be calculated, as specified. The bill would also provide that a rental company shall submit certain information to the Department of Finance under penalty of perjury. The rental company would be liable for specified civil fines for failure to submit this information on time or submitting false information. Accounts overcollected, as specified, would escheat to the state. The department would be required to collect a specified administrative fee and would be authorized to audit rental company records to verify the information provided.

(2) Existing law regulates the contents of vehicle rental agreements used by businesses that rent passenger vehicles to the public, as specified.

This bill would, until January 1, 2009, require rental car companies to collect an impact fee, as defined, on each rental transaction, at a rate of 2.29% of the amount of the transaction. The bill would require the rental company to remit, as specified, all fees so collected to the State Board of Equalization to be deposited in the State Treasury to the credit of the Traffic Congestion Relief Fund for transfer to the State Highway Account, a continuously appropriated fund. The bill would require these funds to be



credited towards the obligation of the General Fund to pay off a specified loan and that these funds be allocated exclusively to certain construction projects at locations found to be used by a high proportion of rental cars, as defined. The bill would provide that its provisions would be operative only if the rate of the vehicle license fee, including offsets, exceeds the rate, including offsets, that was in effect on January 1, 2003. The bill would also make a statement of legislative findings and declarations in this regard.

(3) Under existing law, perjury is a felony punishable by imprisonment in the state prison, as specified.

This bill would require certain information submitted to the Department of Finance on behalf of a rental company to be verified under penalty of perjury. By expanding the definition of a crime, the bill would impose a state-mandated local program.

(4) The bill would provide that the above provisions shall become operative only at such time, if any, as the rate for the vehicle license fee, including offsets, if any, exceeds the rates including offsets, if any, that was in effect on January 1, 2003.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature hereby declares all of the following:

(a) Travel and tourism are among California's biggest industries contributing over fifty-two billion dollars to the state economy and employing nearly 700,000 Californians in 1995.

(b) The rental car industry is a vital part of the travel and tourism industry. While rental cars are, at times, driven on all California highways, the greatest number of rental cars use roads at, in, or near locations such as airports and tourist destinations. For example:

(1) In 2002, rental cars were driven nearly six billion miles on California roadways.



(2) Of that total, nearly four billion miles, or 70 percent of all rental car mileage, commenced at airport locations.

(3) At those airports there were more than 12 million rental car transactions that resulted in an equal number of trips away from airports and an equal number of trips returning to airports.

(4) Accordingly, nearly one-half billion miles are driven by rental cars each year on roadways within a 10-mile radius of major California airports.

(5) Further, numerous travelers use rental cars to go to and from major tourist destinations scattered throughout California. The average mileage put on a rental car transaction exceeds 300 miles.

(c) The California State Auditor released a report in July, 2003, showing that “a lack of cash in the State Highway Account ... (and) funding uncertainties associated with the Traffic Congestion Relief Fund (TCRF) ... will affect the State’s aging transportation infrastructure, resulting in deteriorated highways, more traffic congestion, and higher costs for California residents, in terms of wasted fuel and lost productivity.”

(d) Because of those factors, a nexus exists between these deteriorative and congestive conditions and the high concentration of rental cars in, at, and near airports and tourist destinations.

(e) Accordingly, the Legislature finds that it is in the public interest to impose a fee calculated to mitigate the costs of highway construction and improvements near airports and tourist destinations in order to lessen deterioration and congestion on affected highways.

SEC. 2. Section 1936.2 is added to the Civil Code, to read:

1936.2. (a) For the purposes of this section and Section 1936.3, the definitions set forth in Section 1936 shall apply, as well as the following definitions:

(1) “Department” means the Department of Finance.

(2) “Rental car” means a passenger vehicle that is offered for rent by a rental company for use by a renter and that is registered in this state.

(3) “Rental transaction” means an agreement to rent a rental car, exclusive of all optional products, services, and nontaxable items.

(4) “Vehicle license transaction fee” means the fee associated with increased vehicle license fee rates that is collected from each renter on each rental transaction.



(5) “Reporting period” means the 12-month period beginning on the effective date of this section, and each succeeding 12-month period thereafter.

(b) Nothing in this section shall be construed to change the requirements governing vehicle registration or payment of registration fees and vehicle license fees on rental cars.

(c) Notwithstanding Section 1936 or any other provision of law, there is hereby imposed a vehicle license transaction fee to be collected by a rental company from the renter on each rental transaction, that shall be separately stated and charged on the rental agreement, at the amount established pursuant to Section 1936.3.

(1) The vehicle license transaction fee shall be advertised, quoted, and charged in the same manner that an airport customer facility charge is required to be advertised, quoted, and charged pursuant to Section 1936, as those provisions read on January 1, 2003, regardless of whether the fee is calculated on a transaction for which an airport customer facility charge applies.

(2) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees authorized by this section and collected pursuant to Section 1936.3 shall not be subject to sales, use, or transaction taxes.

(d) (1) (A) Annually, no later than 90 days following the reporting period, each rental company shall report to the Department of Finance the following information regarding activities during the reporting period:

(i) Total vehicle license fees paid for all rental cars.

(ii) Total rental car revenue, exclusive of all optional products, services, and nontaxable items.

(iii) Total vehicle license transaction fees collected from renters.

(B) Information submitted pursuant to subparagraph (A) shall be verified under penalty of perjury. In addition, a rental company shall be liable for either or both of the following:

(i) A civil fine of no more than twenty-five thousand dollars (\$25,000) for failure to submit information on or before the due date.

(ii) A civil fine of no more than fifty thousand dollars (\$50,000) for submitting false information.



(2) (A) Within 30 days following submission of the information pursuant to subparagraph (A) of paragraph (1), the department shall report the aggregate data and any comments to the Assembly and Senate Committees on Judiciary.

(B) The information submitted by each rental company shall be kept confidential by the department, although aggregated information that does not reveal the rental company or companies that contributed to the aggregated information may be disclosed pursuant to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8).

(C) The department may audit the records of rental companies to verify the information they provide.

(e) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

SEC. 3. Section 1936.3 is added to the Civil Code, to read:

1936.3. (a) For the purposes of this section, the definitions set forth in Sections 1936 and 1936.2 shall apply, as well as the following definitions:

(1) “Aggregate reimbursable vehicle license fees” means the difference between the amount of vehicle license fees paid at the time of registration or renewal and the amount of vehicle license fees which would have been owed if the rate in effect on January 1, 2003, had been in effect for all rental cars registered or renewed by all rental companies during the reporting period.

(2) “Aggregate rental car revenue” means the total rental car revenue, excluding all optional products and services, that is subject to the sales tax.

(b) (1) The rate for the vehicle license transaction fee established by Section 1936.2 shall be determined by dividing the aggregate reimbursable vehicle license fees paid for original and renewal vehicle license fees during the reporting period by the aggregate rental car revenue for all rental car companies during the reporting period, and multiplying that number by 80 percent.

(2) Notwithstanding paragraph (1), for the first reporting period, the rate for the vehicle license transaction fee shall be 2.71 percent of the rental transaction unless the vehicle license fee is reduced to a rate of less than 2 percent of market value, in which instance the provisions of subparagraph (B) of paragraph (1) of subdivision (c) shall apply.



(c) (1) (A) If the total amount of vehicle license transaction fees collected exceeds, in the aggregate for the reporting period, 80 percent of the difference in vehicle license fees for rental cars actually paid to the department at the time of registration or renewal and the vehicle license fees calculated at the rate in effect on January 1, 2003, the department shall reduce the vehicle license transaction fee rate. The adjusted rate shall take effect not less than 60 days following the announcement of the department's determination.

(B) If, at any time, the rate of the vehicle license fee is reduced to a rate less than 2 percent of market value, the department shall, within 30 days, adjust the rate in a manner consistent with paragraph (1) of subdivision (a).

(2) If the total amount of vehicle license transaction fees collected, in aggregate for the reporting period, is less than 80 percent of the difference in vehicle license fees for rental cars actually paid to the department at the time of registration or renewal and the vehicle license fees calculated at the rate in effect on January 1, 2003, the department shall recommend an amount of increase in the vehicle license transaction fee rate in its report to the Assembly and the Senate Committees on Judiciary. However, if the vehicle license transaction fee rate is below the maximum fee rate specified in subdivision (b) when the rate increase determination is made, the department shall increase the fee rate up to that maximum statutory rate, as appropriate. A recommendation of any additional increase shall be included in the department's report to the Assembly and Senate Committees on Judiciary.

(3) If the information shows that the vehicle license transaction fee rate is not resulting in overcollection or undercollection, the department shall continue the current fee rate and report the aggregated data and its conclusions to the Assembly and the Senate Committees on Judiciary.

(d) An adjustment, if any, shall be based on information submitted by each rental company pursuant to subparagraph (A) of paragraph (1) of subdivision (d) of Section 1936.2.

(e) An overcollection by any rental company shall escheat to the state pursuant to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure. The rental company's relinquishment of the excess to the state shall constitute a refusal



to accept the excess fee pursuant to operation of law, under Section 1300 of the Code of Civil Procedure. An “overcollection” means an amount that exceeds 80 percent of the difference between that which the rental company would have paid for vehicle license fees if those fees had remained at the rate in effect on January 1, 2003, and the amount of vehicle license fees actually paid by the rental company to the department during the reporting period.

SEC. 4. Section 1936.4 is added to the Civil Code, to read:

1936.4. (a) For the purposes of this section, the definitions set forth in Sections 1936 and 1936.2 shall apply. In addition the following definitions shall apply:

(1) “Impact fee” means the separate fee charged by rental companies for the purpose of helping the state to mitigate the costs associated with the lessening of highway deterioration and the relieving of traffic congestion near airports and tourist destinations.

(2) “Other locations at, in, or near airports, tourist destinations, and other locations found to be used by a high proportion of rental cars” means those projects scheduled to be funded, all or in part, by the State Highway Account that, in the judgment of the California Transportation Commission, accommodate or will accommodate a greater proportion of rental cars than will other highways in the state.

(b) Notwithstanding Section 1936 or any other provision of law, subject to the requirements of paragraphs (1) and (2), there is hereby imposed an impact fee to be collected by the rental company from the renter on each rental transaction at the rate established in subdivision (c).

(1) The impact fee shall be advertised, quoted, and charged in the same manner that an airport customer facility charge is required to be advertised, quoted, and charged pursuant to Section 1936, as those provisions read on January 1, 2003, regardless of whether the fee is being calculated on a transaction for which an airport customer facility charge applies.

(2) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees authorized by this section and collected pursuant to Section 1936.3 are not subject to sales, use, or transaction taxes.





(c) The rate for the impact fee is 2.29 percent of the amount of the rental transaction.

(d) Annually, no later than 90 days following a reporting period, each rental company shall remit to the State Board of Equalization, in a manner and form prescribed by the board, all impact fees collected by the rental company during the reporting period. All remittances shall be deposited in the State Treasury to the credit of the Transportation Congestion Relief Fund for immediate transfer to the State Highway Account. The amounts so deposited shall be credited towards the obligation of the General Fund to repay the loan it had received from the Transportation Congestion Relief Fund and for the obligation of the Transportation Congestion Relief Fund to repay the loan it had received from the State Highway Account.

(e) Funds deposited in accordance with subdivision (d) shall be allocated exclusively to construction projects located at, in, or near airports, tourist destinations, and other locations found to be used by a high proportion of rental cars.

(f) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends that date.

SEC. 5. Sections 1, 2, and 3 of this act shall become operative only at such time, if any, as the rate for the vehicle license fee, including offsets, if any, exceeds the rate, including offsets, if any, that was in effect on January 1, 2003.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved \_\_\_\_\_, 2003

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*Governor*

